IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 9933 of 1994

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DY EXECUTIVE ENGINEER IRRIGATION PROJECT DIVISION - Petitioner(s)

Versus

BHARATKUMAR L DETROJA - Respondent(s)

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Appearance :

MR KL PANDYA A.G.P. for Petitioner No(s).: 1.

MR MUKESH H RATHOD for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 18/07/2005

ORAL JUDGMENT

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1. This petition is directed against the judgment and award dated 7th September, 1993 passed by the Labour Court, Rajkot in Reference [L.C.R.] No. 2239 of 1993, whereby the Labour Court has directed the petitioner to

reinstate the respondent-workman in service along with 50% back wages.

2. The short facts of the case are that the respondent was working as a daily wager with the petitioner Department. The services of the respondent were rendered as and when the work is available with the petitioner Department. Since the work was not available with the petitioner, the respondent was not engaged work.

2.1. Feeling aggrieved by the said action, the respondent raised an industrial dispute before the Labour Court, Rajkot for adjudication. The Labour Court after appreciating the materials produced before it, passed the impugned award. Hence, this petition.

3. Mr. K.L. Pandya learned A.G.P., appearing for the petitioner Department has contended that the Labour Court has committed an error in granting reinstatement with 50% back wages inasmuch as the respondent was working as daily wager and he was gainfully employed after 15th July, 1988.

4. I have heard the learned counsel for the

parties. Having perused the materials produced on record, it transpires that this Court while admitting the petition has stayed the direction with regard to back wages on condition that the petitioner shall reinstate the respondent in service. Now since the respondent is reinstated in service, the only question which is now required to be considered is with regard to the direction of 50% back wages.

5. However, the Labour Court while granting 50% back wages has not given any cogent reasons. Even otherwise since the respondent is doing agricultural, he is not entitled for the back wages. Thus, the impugned award qua the direction of back wages is required to be quashed and set aside.

6. In the result, the petition is partly allowed. The award dated dated 7th September, 1993 passed by the Labour Court, Rajkot in Reference [L.C.R.] No. 2239 of 1993, qua the direction of back wages is quashed and set aside. The rest of the award is confirmed. The petitioner shall grant all the benefits to the respondent from the date of publication of the award till the payment is realized and the difference of salary within a

period of three months from the date of receipt of writ of this Court. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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